

TREATY SERIES No. 19 (1922).

TREATY

BETWEEN THE

BRITISH AND AFGHAN GOVERNMENTS.

Signed at Kabul, November 22, 1921.

[*Ratifications exchanged at Kabul, February 6, 1922.*]

Presented to Parliament by Command of His Majesty.



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1922

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Treaty between the British and Afghan Governments.

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(Ratifications exchanged at Kabul, February 6, 1922.)

PREAMBLE.



THE British Government and the Government of Afghanistan with a view to the establishment of neighbourly relations between them have agreed to the Articles written hereunder whereto the undersigned duly authorised to that effect have set their seals :—

ARTICLE 1.

The British Government and the Government of Afghanistan mutually certify and respect each with regard to the other all rights of internal and external independence.

ARTICLE 2.

The two High Contracting Parties mutually accept the Indo-Afghan Frontier as accepted by the Afghan Government under Article 5 of the treaty concluded at Rawalpindi on the 8th August, 1919, corresponding to the 11th Ziqada, 1337 Hijra, and also the boundary west of the Khyber laid down by the British Commission in the months of August and September 1919, pursuant to the said Article, and shown on the map* attached to this treaty by a black chain line; subject only to the realignment set forth in Schedule I annexed, which has been agreed upon in order to include within the boundaries of Afghanistan the place known as Tor Kham, and the whole bed of the Kabul River between Shilman Khwala Banda and Palosai and which is shown on the said map by a red chain line. The British Government agrees that the Afghan authorities shall be permitted to draw water in reasonable quantities through a pipe which shall be provided by the British Government from Landi Khana for the use of Afghan subjects at Tor Kham, and the Government of Afghanistan agrees that British officers and tribesmen living on the British side of the boundary shall be permitted without let or hindrance to use the aforesaid portion of the Kabul River for purposes of navigation and that all existing rights of irrigation from the aforesaid portion of the river shall be continued to British subjects.

* Not reproduced.

ARTICLE 3.

The British Government agrees that a Minister from His Majesty the Amir of Afghanistan shall be received at the Royal Court of London like the Envoys of all other Powers, and to permit the establishment of an Afghan Legation in London, and the Government of Afghanistan likewise agrees to receive in Kabul a Minister from His Britannic Majesty the Emperor of India and to permit the establishment of a British Legation at Kabul.

Each party shall have the right of appointing a Military Attaché to its Legation.

ARTICLE 4.

The Government of Afghanistan agrees to the establishment of British Consulates at Kandahar and Jalalabad, and the British Government agrees to the establishment of an Afghan Consul-General at the headquarters of the Government of India and three Afghan Consulates at Calcutta, Karachi and Bombay. In the event of the Afghan Government desiring at any time to appoint Consular officers in any British territories other than India a separate agreement shall be drawn up to provide for such appointments if they are approved by the British Government.

ARTICLE 5.

The two High Contracting Parties mutually guarantee the personal safety and honourable treatment each of the representatives of the other, whether Minister, Consul-General or Consuls within their own boundaries, and they agree that the said representatives shall be subject in the discharge of their duties to the provisions set forth in the second schedule annexed to this treaty. The British Government further agrees that the Minister, Consul-General and Consuls of Afghanistan shall, within the territorial limits within which they are permitted to reside or to exercise their functions, notwithstanding the provisions of the said schedule, receive and enjoy any rights or privileges which are or may hereafter be granted to or enjoyed by the Minister, Consul-General or Consuls of any other Government in the countries in which the places of residence of the said Minister, Consul-General and Consuls of Afghanistan are fixed: and the Government of Afghanistan likewise agrees that the Minister and Consuls of Great Britain shall within the territorial limits within which they are permitted to reside or to exercise their functions, notwithstanding the provisions of the said schedule, receive and enjoy any rights or privileges which are or may hereafter be granted to or enjoyed by the Minister or Consuls of any other Government in the countries in which the places of residence of the said Minister and Consuls of Great Britain are fixed.

ARTICLE 6.

As it is for the benefit of the British Government and the Government of Afghanistan that the Government of Afghanistan shall be strong and prosperous, the British Government agrees

that whatever quantity of material is required for the strength and welfare of Afghanistan, such as all kinds of factory machinery, engines and materials and instruments for telegraph, telephones, &c., which Afghanistan may be able to buy from Britain or the British dominions or from other countries of the world, shall ordinarily be imported without let or hindrance by Afghanistan into its own territories from the ports of the British Isles and British India. Similarly the Government of Afghanistan agrees that every kind of goods, the export of which is not against the internal law of the Government of Afghanistan and which may in the judgment of the Government of Afghanistan be in excess of the internal needs and requirements of Afghanistan and is required by the British Government, can be purchased and exported to India with the permission of the Government of Afghanistan. With regard to arms and munitions, the British Government agrees that as long as it is assured that the intentions of the Government of Afghanistan are friendly and that there is no immediate danger to India from such importation in Afghanistan, permission shall be given without let or hindrance for such importation. If, however, the Arms Traffic Convention is hereafter ratified by the Great Powers of the world and comes into force, the right of importation of arms and munitions by the Afghan Government shall be subject to the proviso that the Afghan Government shall first have signed the Arms Traffic Convention, and that such importation shall only be made in accordance with the provisions of that Convention. Should the Arms Traffic Convention not be ratified or lapse, the Government of Afghanistan, subject to the foregoing assurance, can from time to time import into its own territory the arms and munitions mentioned above through the ports of the British Isles and British India.

ARTICLE 7.

No Customs duties shall be levied at British Indian ports on goods imported under the provisions of Article 6 on behalf of the Government of Afghanistan, for immediate transport to Afghanistan, provided that a certificate signed by such Afghan authority or representative as may from time to time be determined by the two Governments shall be presented at the time of importation to the Chief Customs Officer at the port of import setting forth that the goods in question are the property of the Government of Afghanistan and are being sent under its orders to Afghanistan, and showing the description, number and value of the goods in respect of which exemption is claimed; provided, secondly, that the goods are required for the public services of Afghanistan and not for the purposes of any State monopoly or State trade; and provided, thirdly, that the goods are, unless of a clearly distinguishable nature, transported through India in sealed packages, which shall not be opened or subdivided before their export from India.

And also the British Government agrees to the grant in respect of all trade goods imported into India at British ports for re-export

to Afghanistan and exported to Afghanistan by routes to be agreed upon between the two Governments of a rebate at the time and place of export of the full amount of Customs duty levied upon such goods, provided that such goods shall be transported through India in sealed packages which shall not be opened or subdivided before their export from India.

And also the British Government declares that it has no present intention of levying Customs duty on goods or livestock of Afghan origin or manufacture, imported by land or by river into India or exported from Afghanistan to other countries of the world through India and the import of which into India is not prohibited by law. In the event, however, of the British Government deciding in the future to levy Customs duties on goods and livestock imported into India by land or by river from neighbouring States, it will, if necessary, levy such duties on imports from Afghanistan; but in that event it agrees that it will not levy higher duties on imports from Afghanistan than those levied on imports from such neighbouring States. Nothing in this Article shall prevent the levy on imports from Afghanistan of the present Khyber tolls and of octroi in any town of India in which octroi is or may be hereafter levied, provided that there shall be no enhancement over the present rate of the Khyber tolls.

ARTICLE 8.

The British Government agrees to the establishment of trade agents by the Afghan Government at Peshawar, Quetta and Parachinar, provided that the personnel and the property of the said agencies shall be subject to the operations of all British laws and orders and to the jurisdiction of British Courts; and that they shall not be recognised by the British authorities as having any official or special privileged position.

ARTICLE 9.

The trade goods coming to (imported to) Afghanistan under the provisions of Article 7 from Europe, &c., can be opened at the railway terminuses at Jamrud, in the Kurram and at Chaman for packing and arranging to suit the capacity of baggage animals without this being the cause of reimposition of Customs duties; and the carrying out of this will be arranged by the trade representatives mentioned in Article 12.

ARTICLE 10.

The two High Contracting Parties agree to afford facilities of every description for the exchange of postal matter between their two countries, provided that neither shall be authorised to establish Post Offices within the territory of the other. In order to give effect to this Article, a separate Postal Convention shall be concluded, for the preparation of which such number of special officers as the Afghan Government may appoint shall meet the officers of the British Government and consult with them.

ARTICLE 11.

The two High Contracting Parties having mutually satisfied themselves each regarding the goodwill of the other, and especially regarding their benevolent intentions towards the tribes residing close to their respective boundaries, hereby undertake each to inform the other in future of any military operations of major importance which may appear necessary for the maintenance of order among the frontier tribes residing within their respective spheres, before the commencement of such operations.

ARTICLE 12.

The two High Contracting Parties agree that representatives of the Government of Afghanistan and of the British Government shall be appointed to discuss the conclusion of a Trade Convention and the convention shall in the first place be regarding the measures (necessary) for carrying out the purposes mentioned in Article 9 of this treaty. Secondly. (They) shall arrange regarding commercial matters not now mentioned in this treaty which may appear desirable for the benefit of the two Governments. The trade relations between the two Governments shall continue until the Trade Convention mentioned above comes into force.

ARTICLE 13.

The two High Contracting Parties agree that the first and second schedules attached to this treaty shall have the same binding force as the Articles contained in this treaty.

ARTICLE 14.

The provisions of this treaty shall come into force from the date of its signature, and shall remain in force for three years from that date. In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said three years the intention to terminate it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting Parties shall have denounced it. This treaty shall come into force after the signatures of the Missions of the two Parties and the two ratified copies of this shall be exchanged in Kabul within 2½ months after the signatures.

(Sd.) MAHMUD TARZI,
*Chief of the Delegation of the
Afghan Government for
the conclusion of the
Treaty.*

(Sd.) HENRY R. C. DOBBS,
*Envoy Extraordinary and Chief
of the British Mission to
Kabul.*

*Tuesday, 30th Aqrab 1300 Hijra
Shamsi (corresponding to
22nd November, 1921).*

*This twenty-second day of
November one thousand nine
hundred and twenty-one.*

SCHEDULE I.

(Referred to in Article 2.)

In the nulla bed running from Landi Khana to Paimda Khak Post, the Afghan frontier has been advanced approximately 700 yards, and the Tor Kham Ridge, including Shamsa Kandao and Shamsa Kandao Sar, is comprised in Afghan territory. Further, the Afghan frontier has been advanced between the point where the present boundary joins the Kabul River and Palosai from the centre of the river to the right bank.

SCHEDULE II.

Legations and Consulates.

(a.) The Legations, Consulate-General and Consulates of the two High Contracting Parties shall at no time be used as places of refuge for political or ordinary offenders or as places of assembly for the furtherance of seditious or criminal movements or as magazines of arms.

(b.) The Minister of His Britannic Majesty at the Court of Kabul shall, together with his family, Secretaries, Assistants, Attachés and any of his menial or domestic servants or his couriers who are British subjects, be exempt from the civil jurisdiction of the Afghan Government, provided that he shall furnish from time to time to the Afghan Government a list of persons in respect of whom such exemption is claimed, and, under a like proviso, the Minister of the Amir to the Royal Court of London to which all the Ambassadors of States are accredited shall, together with his family, Secretaries, Assistants, Attachés and any of his menial or domestic servants or his couriers who are Afghan subjects, be exempt from the civil jurisdiction of Great Britain. If an offence or crime is committed by an Afghan subject against the British Minister or the persons above mentioned who are attached to the British Legation, the case shall be tried according to the local law by the Courts of Afghanistan within whose jurisdiction the offence is committed, and the same procedure shall be observed *vice versa* with regard to offences committed in England by British subjects against the Afghan Minister or other persons above mentioned attached to the Afghan Legation.

(c.) (i.) A Consul-General, Consuls and members of their staffs and households, who are subjects of the State in which they are employed, shall remain subject in all respects to the jurisdiction, laws and regulations of such State.

(ii.) A Consul-General, Consuls and members of their staffs and households, other than subjects of the State in which they are employed, shall be subject to the jurisdiction of the Courts of such State, in respect of any criminal offence committed against the Government or subjects of such State, provided that no Consul-General, Consul or member of their staff or household shall suffer

any punishment other than fine; provided also that both Governments retain always the right to demand recall from their dominions of any Consul-General, Consul or member of their staff or household.

(iii.) A Consul-General, Consuls and members of their staffs and households, other than subjects of the State in which they are employed, shall be subject to the jurisdiction of the Courts of the said State in respect of any civil cause of action arising in the territory of the said State, provided that they shall enjoy the customary facilities for the performance of their duties.

(iv.) The Consul-General of Afghanistan and Consuls shall have a right to defend the interests of themselves or any members of their staffs and households who are subjects of their own Governments in any Court through pleaders or by the presence of one of the consulate officials, with due regard to local procedure and laws.

(d.) The Ministers, Consul-General and Consuls of the two High Contracting Parties and the members of their staffs and households shall not take any steps or commit any acts injurious to the interests of the Government of the country to which they are accredited.

(e.) The Ministers, Consul-General and Consuls of the two Governments in either country shall be permitted to purchase or hire on behalf of their Governments residences for themselves and their staff and servants, or sites sufficient and suitable for the erection of such residence and grounds of a convenient size attached, and the respective Governments shall give all possible assistance towards such purchase or hire: provided that the Government of the country to which the Ministers or Consuls are accredited shall, in the event of an Embassy or Consulate being permanently withdrawn, have the right to acquire such residences or lands at a price to be mutually agreed on; and provided that the site purchased or hired shall not exceed 20 jaribs in area.

Note.—Each jarib = 60×60 yards, English = 3,600 square yards.

(f.) The Ministers, Consul-General and Consuls of the two Governments shall not acquire any immovable property in the country to which they are accredited without the permission of the Government of the said country.

(g.) Neither of the two High Contracting Parties shall found a mosque, church or temple for the use of the public inside any of its Legations or Consulates, nor shall the Ministers, Consul-General or Consuls of either Government or their Secretaries or members of their staffs and households engage in any political agitation or movement within the country to which they are accredited or in which they are residing.

(h.) The Ministers, Consul-General and Consuls of the two High Contracting Parties shall not grant naturalisation or passports or certificates of nationality or other documents of identity to the subjects of the country in which they are employed in such capacity.

(i.) The Ministers of the two High Contracting Parties, besides

their own wives and children, may have with them not more than thirty-five persons, and a Consul-General and Consuls, besides their own wives and children, not more than twenty persons. If it becomes necessary to employ in addition subjects of the Government of the country to which they are accredited, Ministers can employ not more than ten persons and Consul-General and Consuls not more than five persons.

(j.) The Ministers, Consul-General and Consuls of the two High Contracting Parties shall be at liberty to communicate freely with their own Government and with other official representatives of their Government in other countries by post, by telegraph and by wireless telegraphy in cypher or *en clair*, and to receive and despatch sealed bags by courier or post, subject to a limitation in the case of Ministers of 6 lb. per week, and in the case of a Consul-General and Consuls of 4 lb. per week, which shall be exempt from postal charges and examination, and the safe transmission of which shall, in the case of bags sent by post, be guaranteed by the Postal Departments of the two Governments.

(k.) Each of the two Governments shall exempt from the payment of Customs or other duties all articles imported within its boundaries in reasonable quantities for the personal use of the Minister of the other Government or of his family, provided that a certificate is furnished by the Minister at the time of importation that the articles are intended for such personal use.

APPENDIX.

I.—*Letter from British Representative to Sardar-i-Ala, the Afghan Foreign Minister.*

(After compliments.)

WITH reference to the provisions contained in Article 6 of the treaty concluded between the Government of Afghanistan and the British Government regarding the importation of arms and munitions into Afghanistan through India, I have the honour to inform and assure you that, although the British Government has in that article reserved to itself the right exercised by every nation to stop the transportation to a neighbouring country of arms and munitions, in the event of its not being assured of the friendly intentions of that country, the British Government has no desire to make trifling incidents an excuse for the stoppage of such arms and munitions. It would only be in the event of the Government of Afghanistan showing plainly by its attitude that it had determined on an unfriendly and provocative course of policy towards Great Britain contrary to the neighbourly treaty above mentioned that the latter State would exercise the right of stoppage. There is every ground for hope that such a contingency will never arise, in view of the friendly relations which are expected to spring from the treaty which has now been concluded.

(Usual ending.)

II.—*Letter, No. 112, from Sardar-i-Ala, the Afghan Foreign Minister, to the British Representative at Kabul.*

(After compliments.)

REGARDING the purchase of arms and munitions which the Government of Afghanistan buys for the protection of its rights and welfare, from the Governments of the world (and) imports to its own territory from the ports of Great Britain and British India, in accordance with Article 6 of the treaty between the two great Governments, I, in order to show the sincere friendship which my Government has with your Government, promise that Afghanistan shall, from time to time before the importation of the arms and munitions at British ports, furnish detailed list of those to the British Minister accredited to the Court of my sacred and great Government, so that the British Government having known and acquainted itself with the list and the number of imported articles should, in accordance with Article 6 of the treaty between the two Governments, afford the necessary facilities. (Usual ending.)

Dated, 29th Aqrab A.H. 1300. 

III.—*Letter, No. 111, from Sardar-i-Ala, the Afghan Foreign Minister, to the British Representative at Kabul.*

(After compliments.)

As in Article 7 of the treaty (between) the two great Governments of Britain and Afghanistan, your Government has with great sincerity granted a discriminating exemption from Customs duties on the goods required by my Government and on the trade goods transported to Afghanistan through the ports of Great Britain and British India and has not imposed Customs on goods produced and manufactured in Afghanistan, I therefore also, in consideration of the friendship (between) the two Governments, write that my Government will not give the opportunity of establishing a Consul-General or Consul or representatives of the Russian Government at the positions and territories of Jalalabad, Ghazni and Kandahar, which are contiguous to the frontiers of India. If the Consulates or representatives of the Government of Russia are allowed in the parts mentioned, the Government of Afghanistan shall not have the above-mentioned right of exemption. Of course, the temporary association of the Russian Minister with His Majesty's move to Jalalabad in winter will be an exception. (Usual ending.)

Dated, 30th Aqrab, A.H. 1300.

IV.—*Letter from British Representative to Sardar-i-Ala, the Afghan Foreign Minister.*

(After compliments.)

As the conditions of the frontier tribes of the two Governments are of interest to the Government of Afghanistan, I inform you that the British Government entertains feelings of goodwill towards all the frontier tribes and has every intention of treating them generously, provided they abstain from outrages against the inhabitants of India. I hope that this letter will cause you satisfaction.

(Usual ending.)